

PN 361 of 28 November 2012: Regulations Relating to the Management and Control of Hostels at Public Schools and the Control over the Immovable Property and Equipment of Hostels under the Western Cape Education Department
(Provincial Gazette Extraordinary No. 7066)

as amended by

Notice
PN 104

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In terms of section 63 (1) (a) of the Western Cape Provincial School Education Act, 1997 (Act 12 of 1997), the Provincial Minister responsible for education in the Western Cape makes the regulations as set out in the following Schedule.

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1. Definitions.-In these regulations any word or expression to which a meaning has been assigned in the Act, has the same meaning to it, and unless the context otherwise indicates-

"disciplinary committee" means a committee established by the governing body of a public school in terms of section 23 of the Act to deal with disciplinary matters;

[Definition of "disciplinary committee" inserted by r. 2 (a) of Provincial Notice No. 104 of 2 September 2022.]

"district hostel coordinator" means the officer responsible for the coordination of hostel management and services in the education district;

"expulsion" means the permanent prohibition of a hostel boarder by the Head of Department-

(a) from living in a particular hostel; or

(b) from living in a particular hostel and attending a particular public school,

after following the process in terms of these regulations, and **"expel"** has a corresponding meaning;

"hostel boarder" means a learner who lives in a hostel during school term;

"hostel committee" means a sub-committee of the governing body which is tasked with overseeing the governance and supporting the management of the hostel;

"norms and standards for school funding" means school funding approved by the Minister of Basic Education as defined in section 1 of the South African Schools Act, 1996 (Act 84 of 1996);

"principal" means an educator appointed or acting as the head of a school to which a hostel is attached;

"provincial hostel coordinator" means the officer responsible for the coordination of hostel management and services in the province;

"Regulations relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape" means the Regulations relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape, as published under Provincial Notice 365/2011 dated 15 December 2011, as may be amended from time to time;

[Definition of "Regulations relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape" inserted by r. 2 (c) of Provincial Notice No. 104 of 2 September 2022.]

"superintendent" means a person who manages and oversees the activities at a hostel;

"supervisor" means an educator or non-educator appointed to do supervisory duties at a hostel;

[Definition of "supervisor" amended by r. 2 (d) of Provincial Notice No. 104 of 2 September 2022.]

"suspension" means the temporary prohibition of a hostel boarder by the governing body or Head of Department-

(a) from living in a particular hostel; or

(b) from living in a particular hostel and attending a particular public school,

and **"suspend"** has a corresponding meaning;

[Definition of "suspension" inserted by r. 2 (e) of Provincial Notice No. 104 of 2 September 2022.]

"the Act" means the Western Cape Provincial School Education Act, 1997 (Act 12 of 1997).

1A. Application of regulations.-These regulations apply to all hostels at public schools in the province.

[R. 1A inserted by r. 3 of Provincial Notice No. 104 of 2 September 2022.]

2. Establishment of hostels.-(1) The Provincial Minister may, out of moneys appropriated for this purpose by the Provincial Parliament, establish and maintain hostels for public schools.

(2) Depending on the needs of a school, the Provincial Minister may make provision for gender-specific school hostels.

3. Closing of hostels.-(1) The Provincial Minister may, after consultation with the governing body of the public school concerned, close a hostel referred to in regulation 2 (1).

(2) The Provincial Minister may not act under sub-regulation (1) unless he or she has-

(a) informed the governing body of the school of his or her intention to act and his or her reasons therefor;

(b) granted the governing body of the school a reasonable opportunity to make representations to him or her in relation to such action;

(c) conducted a public hearing on reasonable notice, to enable the community to make representations to him or her in relation to such action; and

(d) given due consideration to any such representations received.

(3) If a hostel is closed in terms of sub-regulation (1), all assets and liabilities of that hostel must, subject to the conditions of any donation, bequest or trust contemplated in section 37 (4) of the South African Schools Act, 1996 (Act 84 of 1996) devolve on the State, unless otherwise agreed between the Provincial Minister and the governing body of the school.

4. Basic infrastructure requirements.-(1) The following infrastructure must be made progressively available for learners and employees at a hostel-

- (a) personal space in accordance with the space norms that will be determined by the Department, for sleeping and for belongings, with suitable furniture for the number of learners;
- (b) appropriate separation between genders and age groups;
- (c) quiet area for study and homework;
- (d) space for dining;
- (e) space for entertainment and recreation;
- (f) space to meet with friends, family and significant people in private without disrupting others;
- (g) laundry facilities;
- (h) appropriately fitted bathrooms, showers and toilets for hostel boarders, live-in staff and other employees that are designed in such a way that staff are able to open them from the outside in case of an emergency;
- (i) space for health care, such as sick rooms or sick bays, with an appropriate first-aid kit and ample space for mobile clinic services if these are made available to the school;
- (j) safe and secure space for playing, appropriate to the learners' ages, where access is monitored;
- (k) staff accommodation for those employees responsible for the management of the facilities and for the care of the learners;
- (l) kitchen space for the preparation of food, cooking, food and crockery storage, a scullery and control room for management purposes; and
- (m) administration space for administration matters.

5. Governance and management of hostels.-(1) Subject to these regulations and section 13 (1) of the Act, the governance of a hostel is vested in the governing body of the school.

(2) The governing body must perform its functions and obligations in accordance with the provisions of the Act and these regulations.

6. Authority and general functions of Head of Department.-(1) In addition to the functions assigned to the Head of Department in terms of section 7 of the Act and any other applicable law, he or she, or his or her delegate, shall appoint a superintendent and other additional staff at the hostel after consultation with the governing body.

(2) The Head of Department may-

- (a) after due process, terminate the services of the superintendent or a member of the supervisory staff at the hostel, on good cause shown;
- (b) in terms of section 9 of the Act, either generally or in a specific case, authorise, in writing, a person to visit and assess a hostel, after consultation with the principal of the school;
- (c) introduce reasonable measures to ensure effective disease management at hostels;
- (d) appoint a provincial hostel coordinator who shall be responsible for the coordination of hostel management and services; and
- (e) appoint district hostel coordinators responsible for the coordination of hostel management and services in the districts.

(3) The Head of Department must perform all functions assigned to the Head of Department by these regulations.

[Sub-r. (3) added by r. 4 of Provincial Notice No. 104 of 2 September 2022.]

7. Roles and responsibilities of District Director.-In terms of the provisions of the Act, the District Director manages-

- (1) orientation in relation to policies and guidelines regarding the management of hostels to principals, senior management teams and hostel superintendents;
- (2) site visits referred to in regulation 6 (2) (b) to monitor the functionality of hostels within the districts;
- (3) the compilation of district reports using collected data and forwards them to the responsible provincial hostel coordinator; and

- (4) administrative and managerial support to hostels on a regular basis, based on matters identified in the reports referred to in sub-regulation (3) or in section 9 of the Act.

8. Functions of governing bodies.-(1) In addition to the functions allocated to the governing body of a public school, in terms of sections 20 and 21 of the South African Schools Act 1996, the governing body must-

- (a) establish a hostel committee in terms of section 23 (1) of the Act;
[Para. (a) substituted by r. 5 (a) of Provincial Notice No. 104 of 2 September 2022.]
- (aA) perform all functions assigned to it by these regulations; and
[Para. (aA) inserted by r. 5 (b) of Provincial Notice No. 104 of 2 September 2022.]
- (b) implement policy as stipulated by these regulations and other relevant provincial policies for the effective management and control of the hostel and control over the immovable property and equipment of the hostel.

(2) The governing body may, in terms of section 23 (5) of the Act, at any time dissolve or recompose the hostel committee contemplated in sub-regulation (1) (a).

9. Composition of hostel committee and term of office of hostel committee members.-(1) The hostel committee established in terms of sub-regulation 8 (1) (a) must consist of the following members-

- (a) principal;
- (b) superintendent;
- (c) chairperson elected from the parent component of the governing body; and
- (d) three, but not fewer than one parent, who shall be a parent of a hostel boarder.

(2) The hostel committee may co-opt a person or persons on the strength of their particular knowledge and expertise to assist in the discharge of its functions.

(3) Co-opted members do not have voting rights on the hostel committee.

(4) The term of office of members of the hostel committee may not be longer than three years effective from the date of appointment.

(5) A member of the hostel committee may be reappointed after expiry of his or her term of office.

(6) The governing body may, after due process, discharge a member from the hostel committee on good cause shown.

(7) A vacancy shall occur in the hostel committee when-

- (a) a member dies;
- (b) a member resigns;
- (c) a member has been absent from three consecutive meetings of the hostel committee without leave;
- (d) the governing body discharges a member in terms of sub-regulation (6); or
- (e) a parent member's child ceases to be a learner at that school.

(8) When a vacancy occurs in the hostel committee, the governing body must appoint a new member to hold office for the unexpired portion of the period of office of the hostel committee member.

(9) No member of a hostel committee may be remunerated in any way for the performance of his or her duties.

(10) A member of a hostel committee may be reimbursed for actual expenses incurred in the execution of his or her duties, except for expenses incurred in travelling to and from hostel committee meetings.

10. Meetings of hostel committee.-(1) The chairperson of a hostel committee, who is a parent member of the governing body, must determine the date, time and place of a meeting, which should take place at least once per quarter.

(2) The hostel committee must keep minutes of the proceedings of every meeting and must provide the governing body or any person designated by the governing body with a copy of such minutes.

(3) The minutes of the proceedings of every meeting of the hostel committee must be submitted at the next ensuing meeting of the hostel committee for approval.

11. Functions of hostel committee.-(1) The hostel committee must-

- (a) make recommendations to the governing body in connection with hostel governance;
- (b) make recommendations to the governing body, hostel superintendent and principal of the school in connection with the management of the hostel;
- (c) ensure that the duties at the hostel are performed effectively;
- (d) recommend to the governing body that an inquiry be instituted if any member of the staff of the hostel is unable to carry out his or her duties effectively;
- (e) advise the principal of the school on all matters concerning the hostel;
- (eA) notify the principal as contemplated in regulation 18D (1) (a) of an allegation of serious misconduct against a hostel boarder, and may make recommendations to the principal and governing body on hostel discipline in general or a specific disciplinary matter;
[Para. (eA) inserted by r. 6 of Provincial Notice No. 104 of 2 September 2022.]
- (f) deliberate on matters referred to the hostel committee by the principal;
- (g) develop, with the principal, the superintendent and the governing body, the policies necessary for the effective functioning of the hostel; which must include at least an access control policy for the hostel;
- (h) ensure that proper procedures are in place and financial management guidelines are followed;
- (i) administer oversight over hostel funds, in accordance with the instructions of the governing body and relevant legislation and policies; and
- (j) exercise general oversight over the maintenance of the grounds, buildings, furniture and equipment of the hostel.

12. Maintenance of hostel facilities.-(1) The governing body is responsible for the day-to-day maintenance of hostel facilities such as refuse removal, minor repairs, painting, municipal services and routine maintenance of grounds, furniture and equipment.

(2) The Western Cape Education Department is responsible for capital costs such as planned or scheduled maintenance, rehabilitation and renovations. This is provided in accordance with school maintenance guidelines and the National Norms and Standards for School Funding.

(3) The Western Cape Education Department must allocate maintenance funds for scheduled maintenance for hostels per capita and per poverty ranking. The funds must be earmarked for maintenance of hostel facilities and transferred in line with the National Norms and Standards for School Funding.

(4) The day-to-day running of the hostel, such as the provision of food and cleaning materials, must be covered out of hostel fees and is the responsibility of the governing body. The allocations for scheduled maintenance by the Head of Department, as contemplated by sub-regulation (2), may not be used for this purpose.

13. Management and control of immovable property and equipment.-(1) In terms of section 21A (1) (h) of the Act, a governing body of a public school shall administer and control the school's property and buildings and the grounds occupied by the school, including school hostels.

(2) The governing body must appoint in writing an asset officer to be responsible for the custodianship of the hostel's immovable property and equipment.

(3) The asset officer must ensure that-

- (a) equipment is marked for identification with permanent black ink, paint, a stamp or other suitable permanent marking;
- (b) equipment is used only for the purpose intended;
- (c) equipment is physically secured to prevent theft or misuse;
- (d) insurance is taken out for significant assets; and
- (e) a fixed-asset register is maintained, containing the following details, in respect of all fixed-assets-
 - (i) type and description of the asset;
 - (ii) custodian of the asset;
 - (iii) date of purchase or donation;
 - (iv) cost price or accumulated depreciation or net book value;
 - (v) useful life of the asset;

- (vi) location of the asset;
- (vii) asset number which is internally generated for control purposes; and
- (viii) serial number.

(4) A loss-control register must be maintained and the asset officer must report regularly, at least once a quarter, to the hostel committee with regard to losses, theft and condition of the assets.

(5) The governing body must establish a disposal committee to implement the procedure and policy regarding the disposal of fixed assets.

[Sub-r. (5) substituted by r. 7 of Provincial Notice No. 104 of 2 September 2022.]

(6) The disposal committee should have a member of the governing body as its chairperson.

(7) An effort should be made to share surplus equipment and move unused items to a place where there is a need.

(8) The disposal committee is responsible for establishing the price and negotiating the disposal with other institutions.

(9) Once the asset is out of the custody and control of the school or hostel, the asset register must be updated.

(10) When an asset is disposed of, it must be removed from the financial records.

(11) The procedure to dispose of assets is as follows-

- (a) the governing body must approve the recommendations of the disposal of assets by the disposal committee;
- (b) the name of the individual or the school or hostel that receives the asset must be recorded;
- (c) in the case of sales, the name of the purchaser must be recorded, along with the selling price; and
- (d) all funds received must be banked into the hostel's account.

14. Financial and asset management.-(1) Subject to section 50 of the Act, the governing body of a public school is responsible for managing the finances and assets of a public school to which a hostel is attached in accordance with directions issued by the Head of Department.

(2) The governing body shall determine and charge boarding fees in terms of section 49 of the Act, and in accordance with the National Norms and Standards for School Funding.

(3) The parent of a learner or the person to whom boarding is provided shall pay such boarding fees as determined by the governing body.

(4) The governing body may exempt any learner or category of learners in whole or in part from the payment of the boarding fees contemplated in sub-regulation (2).

(5) The governing body must deposit the boarding fees and voluntary contributions received in the bank account of the school, but schools with hostels must keep separate account of all recurrent costs associated with hostels.

(6) Where the books of the hostel are kept separate from the books of the school, they shall be audited at the same time as the annual school audit and by the same auditor.

15. Annual budget.-(1) Subject to the provisions of section 51 of the Act, the governing body of the public school to which a hostel is attached, in conjunction with the hostel committee, must annually prepare a budget for the hostel in accordance with the guidelines determined by the Provincial Minister, with the concurrence of the financial head.

(2) The governing body shall deal with the financial records of the hostel in accordance with directions issued by the Head of Department.

16. Funding and hostel subsidies.-(1) The Provincial Minister may, out of moneys appropriated for education, provide, on such basis and subject to conditions as he or she may determine -

- (a) financial or other material aid to maintain a hostel; and
- (b) financial aid to a hostel boarder.

(2) Subject to sub-regulation (1), the Act, and any applicable law, funds may be allocated for -

- (a) scheduled maintenance of hostel facilities;
- (b) emergency repairs to and maintenance of hostel facilities; and

(c) financial aid in the form of a hostel subsidy.

(3) Schools with hostels must charge each learner staying in a hostel a hostel fee, equal to the average running costs per learner in a hostel.

(4) Parents of learners may apply annually to the Head of Department, in accordance with procedures determined by him or her, for a hostel subsidy in terms of sub-regulations (1) and (2) (c).

(5) The Head of Department may determine the basis, the conditions and the amount for the allocation of a hostel subsidy to a learner, based on the average running costs of a hostel, and shall annually review the hostel subsidy.

(6) Hostel subsidies that are approved in terms of sub-regulation (4) shall be paid to the school and utilised for the provision of services to hostel boarders and the day-to-day running of the hostel.

(7) The funding norms also provide criteria to determine the eligibility of learners to be subsidised, namely those learners-

(a) who walk 5 kilometres or more to and from the nearest school;

(b) for whom there are no available school places near the learner's parents' place of residence;

(c) whose transport time from home to school is greater than 1,5 hours; and

(d) whose parents cannot afford the per learner hostel fees.

(8) A subsidy for hostel costs incurred by learners with special education needs, who are enrolled in ordinary public schools, will be provided with the same subsidy allocation as for learners in that hostel.

(9) Under no circumstances may a learner qualify for both a hostel subsidy and learner transport.

17. Admission to hostels.-Subject to section 41 of the Act and any other national and provincial law, the admission policy of a hostel and the conditions of payment of boarding fees are determined by the governing body of that school.

18.

[R. 18 repealed by r. 8 of Provincial Notice No. 104 of 2 September 2022.]

18A. Code of conduct.-(1) The governing body must adopt a code of conduct for hostel boarders at the hostel after consultation with the hostel boarders, parents of the hostel boarders, officers and members of staff of the hostel.

(2) The code of conduct must be aimed at establishing a disciplined and purposeful hostel environment.

(3) The code of conduct may not be in conflict and must be read with the code of conduct of the school adopted in terms of section 8 of the South African Schools Act.

[R. 18A inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18B. Conduct at hostels.-Sections 45A and 46A of the Act apply, with the necessary changes, to hostel boarders, and every reference to-

(a) a learner must be construed as a reference to a hostel boarder;

(b) a school must be construed as a reference to a hostel; and

(c) the code of conduct contemplated in section 45 (1) of the Act must be construed as a reference to the code of conduct of the school or the code of conduct of the hostel.

[R. 18B inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18C. Serious misconduct by hostel boarder.-Subject to the provisions of the South African Schools Act, a hostel boarder, while at a hostel or participating in a hostel activity, who-

(a) brings onto the hostel premises or to a hostel activity or uses, threatens to use, has in his or her possession, sells or distributes a dangerous object;

(b) brings onto the hostel premises or to a hostel activity, uses, has in his or her possession, sells, distributes or, in the circumstances contemplated in section 45A (9) of the Act, tests positive for alcoholic liquor or an illegal drug;

- (c) commits an act of bullying, assault, theft, arson, malicious damage to property or another criminal offence, or threatens to commit such an act;
- (d) uses hate speech, makes himself or herself guilty of victimisation, intimidation, racism, sexism or harassment, possesses or distributes pornographic material or engages in any act of public indecency;
- (e) disrespects, violates the rights of, endangers the safety of, threatens or verbally abuses fellow hostel boarders, fellow learners, officers or members of staff or visitors at the school or the hostel;
- (f) vandalises, destroys or defaces hostel infrastructure or property;
- (g) commits an act of gross insubordination;
- (h) with the intention of enabling himself or herself or any other person to gain an unfair advantage, has in his or her possession, uses, distributes or trades any unauthorised copy of a test or examination question paper, or cheats or bribes or attempts to bribe any person in respect of any test or examination;
- (i) disrupts the hostel programme or threatens to commit such an act;
- (j) falsely identifies himself or herself, or knowingly and wilfully supplies false information or falsifies documentation, to gain an unfair advantage at the hostel, or commits any other act of fraud;
- (k) conducts or participates in any initiation practice against a fellow learner or a fellow hostel boarder;
- (l) contravenes any law;
- (m) contravenes the code of conduct of the school or the code of conduct of the hostel; or
- (n) conducts himself or herself, in the opinion of the governing body, in a disgraceful, improper or unbecoming manner,

may be guilty of serious misconduct.

[R. 18C inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18D. Investigation of alleged serious misconduct.-(1) (a) Where the hostel committee obtains information that the alleged conduct of a hostel boarder may constitute serious misconduct contemplated in regulation 18C, the hostel committee must notify the principal in writing.

(b) Any person who knows, believes or suspects on reasonable grounds that a hostel boarder has committed an act of serious misconduct contemplated in regulation 18C may notify the principal.

(2) Once notified, the principal must, without delay-

- (a) investigate or cause an investigation to be carried out to determine whether there are grounds to institute disciplinary proceedings; and
- (b) decide whether there is sufficient evidence to institute disciplinary proceedings against the hostel boarder in respect of the alleged serious misconduct.

(3) If the principal decides that there are sufficient grounds to institute disciplinary proceedings against the hostel boarder in respect of the alleged serious misconduct, the principal must, without delay, submit an investigation report to the governing body.

[R. 18D inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18E. Suspension of hostel boarder as precautionary measure.-(1) On receipt of the investigation report from the principal as contemplated in regulation 18D (3), or out of its own volition, the governing body may, on reasonable grounds and as a precautionary measure, suspend the hostel boarder suspected of serious misconduct-

- (a) from living in the hostel; or
- (b) from living in the hostel and attending the school,

for a period not longer than seven school days, which period may only be extended as contemplated in regulation 18H (2).

(2) The following constitutes reasonable grounds for precautionary suspension-

- (a) the presence of the hostel boarder at the hostel or the school, or the hostel and the school, is likely to-
 - (i) compromise the safety of fellow hostel boarders, fellow learners, officers or members of staff or visitors at the school or the hostel;
 - (ii) result in damage to property; or

(iii) cause disruption of the hostel programme or the school programme; or

(b) the hostel boarder is likely to interfere with witnesses or tamper with evidence.

(3) Before the governing body enforces the suspension in terms of sub-regulation (1), it must-

(a) inform the hostel boarder and his or her parents of the intended suspension and the reasons therefor; and

(b) afford the hostel boarder and his or her parents a reasonable opportunity to make representations orally or in writing to the governing body in respect of the intended suspension.

(4) The governing body must report all decisions to suspend and the nature of suspension to the district director, who must keep a register of all suspensions.

[R. 18E inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18F. Notice of disciplinary proceedings.-(1) The governing body must notify the hostel boarder and his or her parents, in writing, that disciplinary proceedings will be instituted against the hostel boarder.

(2) The notice must-

(a) provide at least five school days' notice of the disciplinary hearing;

(b) inform the hostel boarder and his or her parents that disciplinary proceedings will be instituted against the hostel boarder;

(c) contain sufficient particulars of the date, time, place and nature of the alleged serious misconduct to enable the hostel boarder to identify the incident and to respond thereto at the disciplinary hearing;

(d) contain the date, time and venue of the disciplinary hearing;

(e) advise the hostel boarder of his or her-

(i) right to be accompanied and represented at the hearing by his or her parents or by a representative chosen by his or her parents or appointed by the governing body or disciplinary committee as contemplated in regulation 18H (6);

(ii) right to request access to documents or information produced in evidence; and

(iii) right to state his or her case, ask questions, cross-examine, lead evidence, call witnesses and produce documentary evidence to clarify issues in respect of the allegation; and

(f) inform the hostel boarder, where applicable, of the precautionary suspension and the nature of academic support to be provided by the school before the disciplinary hearing and during the period of suspension contemplated in regulation 18E (1).

(3) The principal must give the notice contemplated in sub-regulation (1) to the hostel boarder and cause a copy thereof to be provided to the parents of the hostel boarder.

(4) The governing body must cause a copy of the investigation report contemplated in regulation 18D (3) to be provided to the hostel boarder and the parents of the hostel boarder prior to the commencement of the disciplinary hearing.

[R. 18F inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18G. Disciplinary committee.-(1) The governing body must conduct the disciplinary hearing or establish a disciplinary committee to do so.

(2) If the governing body establishes a disciplinary committee to conduct the disciplinary hearing, the disciplinary committee must-

(a) comprise at least five persons, of whom at least three must be members of the governing body; and

(b) be chaired by a member of the governing body designated by the governing body who is not an officer or member of staff at the school or hostel.

(3) The principal, hostel boarders at the hostel, learners at the school, and persons having a conflict of interest are not eligible to be members of the disciplinary committee and may not be present when the governing body discusses the report or recommendations of the disciplinary committee, if applicable.

[R. 18G inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18H. General provisions in respect of disciplinary hearings.-(1) A disciplinary hearing of a hostel boarder must be conducted-

- (a) within seven school days after the suspension of such hostel boarder, as contemplated in regulation 18E (1); and
- (b) after at least five school days have passed since notice of the disciplinary hearing was given as contemplated in regulation 18F.

(2) If a disciplinary hearing is not conducted within seven school days after the suspension of the hostel boarder contemplated in regulation 18E (1), the governing body must obtain the approval of the Head of Department for the continuation of the suspension of the hostel boarder.

(3) If the governing body-

- (a) established a disciplinary committee as contemplated in regulation 18G, the disciplinary committee must act in accordance with regulation 18I; or
- (b) did not establish a disciplinary committee, the governing body must act in accordance with regulation 18J.

(4) At the disciplinary hearing the hostel boarder has the rights contemplated in regulation 18F (2) (e).

(5) If the hostel boarder or his or her parents fail to attend the disciplinary hearing without just cause-

- (a) after due notice contemplated in regulation 18F; or
- (b) on a date as agreed upon by the hostel boarder or his or her parents and the governing body,

and after such hearing has been convened a second time, the hearing may be conducted in the absence of the hostel boarder or his or her parents.

(6) If the hostel boarder is not accompanied at the disciplinary hearing by his or her parents or a representative chosen by his or her parents, the governing body or disciplinary committee, as the case may be, must-

- (a) enquire from the hostel boarder regarding the absence of his or her parents;
- (b) inform the hostel boarder of his or her right to have a suitable person appointed by the governing body or disciplinary committee, as the case may be, to assist or represent him or her at the disciplinary hearing, and explain the benefits of such appointment to the hostel boarder; and
- (c) after consultation with the hostel boarder and subject to his or her consent, appoint a suitable person to assist or represent him or her at the disciplinary hearing.

(7) (a) A complainant or witness under the age of 18 years may at a disciplinary hearing be accompanied by his or her parents or a representative chosen by his or her parents.

(b) If it appears to the governing body or disciplinary committee, as the case may be, that testifying at a disciplinary hearing would expose a complainant or witness under the age of 18 years to undue mental stress or suffering, it may appoint a competent person as an intermediary in order to enable such complainant or witness to give his or her evidence through that intermediary.

(c) If an intermediary was appointed as contemplated in paragraph (b)-

- (i) all questions must be put to the relevant complainant or witness through that intermediary; and
- (ii) such intermediary may, unless the governing body or the disciplinary committee, as the case may be, directs otherwise, convey the general purport of any question to the relevant complainant or witness.

(d) If an intermediary was appointed as contemplated in paragraph (b), the governing body or disciplinary committee, as the case may be, may direct that the relevant complainant or witness must give his or her evidence at any place that-

- (i) puts that complainant or witness at ease;
- (ii) is arranged in such a manner that any person whose presence may upset that complainant or witness is outside the sight and hearing of that complainant or witness; and
- (iii) through the medium of any electronic or other devices, enables the governing body or disciplinary committee, as the case may be, and any person whose presence is necessary at the disciplinary hearing, to hear that intermediary as well as that complainant or witness during his or her testimony.

(8) The governing body or disciplinary committee, as the case may be, must be impartial and fair and act without favour or prejudice.

[R. 18H inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18I. Disciplinary hearings conducted by disciplinary committee.-(1) This regulation applies if the governing body established a disciplinary committee as contemplated in regulation 18G.

(2) The chairperson of the disciplinary committee must, at the commencement of the disciplinary hearing-

- (a) explain the reasons for the disciplinary hearing;

(b) request the charge or charges to be read into the record; and

(c) ask the hostel boarder to plead to the charge.

(3) If the hostel boarder pleads guilty-

(a) the chairperson of the disciplinary committee must ensure that the hostel boarder knows and understands what he or she is pleading guilty to;

(b) the disciplinary committee must be satisfied that the plea was made voluntarily and not under duress; and

(c) the chairperson of the disciplinary committee must-

(i) read the facts of the matter into the record;

(ii) afford members of the disciplinary committee an opportunity to ask questions for clarity;

(iii) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the disciplinary committee, to leave the room while the disciplinary committee deliberates on a finding to be recommended to the governing body; and

(iv) after the disciplinary committee has decided on a finding to be recommended to the governing body, recall the hostel boarder, representative and parents of the hostel boarder and any other parties and inform them of the finding to be recommended to the governing body.

(4) If the hostel boarder pleads not guilty, the chairperson of the disciplinary committee must-

(a) request evidence to be adduced in support of the charge, including the calling of the complainant and witnesses;

(b) afford the hostel boarder, representative and parents of the hostel boarder the opportunity to put questions to the complainant and witnesses with the purpose of refuting evidence;

(c) afford the hostel boarder, representative and parents of the hostel boarder an opportunity to state the hostel boarder's case and to call witnesses;

(d) afford members of the disciplinary committee an opportunity to ask questions for clarity;

(e) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the disciplinary committee, to leave the room while the disciplinary committee deliberates on a finding to be recommended to the governing body; and

(f) after the disciplinary committee has decided on a finding to be recommended to the governing body, recall the hostel boarder, representative and parents of the hostel boarder and any other parties, and inform them of the finding to be recommended to the governing body.

(5) If the disciplinary committee decided to recommend a finding that the hostel boarder is not guilty of serious misconduct, the chairperson of the disciplinary committee must submit a report on the disciplinary hearing, the evidence and the recommendation to the governing body.

(6) If the disciplinary committee decided to recommend a finding that the hostel boarder is guilty of serious misconduct, the chairperson of the disciplinary committee must-

(a) ask-

(i) the hostel boarder, representative and parents of the hostel boarder; and

(ii) a representative of the school,

whether they wish to make any written or oral representations before a suitable sanction, to be recommended to the governing body, is deliberated on by the disciplinary committee;

(b) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the disciplinary committee, to leave the room while the disciplinary committee deliberates on a suitable sanction to be recommended to the governing body;

(c) after the disciplinary committee, taking all the evidence and representations into account, decided on a suitable sanction contemplated in regulation 18J (7) to be recommended to the governing body, recall the hostel boarder, representative and parents of the hostel boarder and any other parties, and inform them of the sanction to be recommended to the governing body; and

(d) submit a report on the disciplinary hearing, the evidence, representations and the recommendation to the governing body.

(7) The governing body must, taking into account the information submitted to it by the disciplinary committee as contemplated in sub-regulation (5) or (6) (d), as the case may be, decide on a finding and, if it finds the hostel boarder-

(a) not guilty of serious misconduct, inform the hostel boarder and his or her parents, in writing, of the finding of the governing body; or

(b) guilty of serious misconduct-

- (i) if the disciplinary committee recommended that the hostel boarder be found guilty, decide on a sanction contemplated in regulation 18J (7); or
 - (ii) if the disciplinary committee recommended that the hostel boarder be found not guilty, ask-
 - (aa) the hostel boarder, representative and parents of the hostel boarder; and
 - (bb) a representative of the school,whether they wish to make any written or oral representations on a suitable sanction, and decide on a sanction contemplated in regulation 18J (7),
- and inform the hostel boarder and his or her parents, in writing, of the sanction imposed.
- [R. 18I inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18J. Disciplinary hearings conducted by governing body.-(1) This regulation applies if the governing body did not establish a disciplinary committee as contemplated in regulation 18G.

- (2) The chairperson of the governing body must, at the commencement of the disciplinary hearing-
 - (a) explain the reasons for the disciplinary hearing;
 - (b) request the charge or charges to be read into the record; and
 - (c) ask the hostel boarder to plead to the charge.
- (3) If the hostel boarder pleads guilty-
 - (a) the chairperson of the governing body must ensure that the hostel boarder knows and understands to what he or she is pleading guilty;
 - (b) the governing body must be satisfied that the plea was made voluntarily and not under duress; and
 - (c) the chairperson of the governing body must-
 - (i) read the facts of the matter into the record;
 - (ii) afford members of the governing body an opportunity to ask questions for clarity;
 - (iii) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the governing body, to leave the room while the governing body deliberates on a finding; and
 - (iv) after the governing body has decided on a finding, recall the hostel boarder, representative and parents of the hostel boarder and any other parties, and inform them of the governing body's finding.
- (4) If the hostel boarder pleads not guilty, the chairperson of the governing body must-
 - (a) request evidence to be adduced in support of the charge, including the calling of the complainant and witnesses;
 - (b) afford the hostel boarder, representative and parents of the hostel boarder the opportunity to put questions to the complainant and witnesses with the purpose of refuting evidence;
 - (c) afford the hostel boarder, representative and parents of the hostel boarder an opportunity to state the hostel boarder's case and to call witnesses;
 - (d) afford members of the governing body an opportunity to ask questions for clarity;
 - (e) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the governing body, to leave the room while the governing body deliberates on a finding; and
 - (f) after the governing body decided on a finding, recall the hostel boarder, representative and parents of the hostel boarder and any other parties and inform them of the governing body's finding.
- (5) If the governing body decides to find the hostel boarder not guilty of serious misconduct, it must inform the hostel boarder and his or her parents, in writing, of the finding of the governing body.
- (6) If the governing body decides to find the hostel boarder guilty of serious misconduct, the chairperson of the governing body must-
 - (a) ask-
 - (i) the hostel boarder, representative and parents of the hostel boarder; and
 - (ii) a representative of the school,whether they wish to make any written or oral representations before a suitable sanction is

deliberated on by the governing body;

- (b) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the governing body, to leave the room while the governing body deliberates on a suitable sanction; and
 - (c) after the governing body, taking all the evidence and representations into account, decided on a suitable sanction contemplated in sub-regulation (7), recall the hostel boarder, representative and parents of the hostel boarder and any other parties, and inform them of the sanction.
- (7) If the governing body finds the hostel boarder guilty of serious misconduct, it must decide whether-
- (a) the hostel boarder should as a corrective measure be suspended-
 - (i) from living in the hostel; or
 - (ii) from living in the hostel and attending the school,for a period not longer than seven school days;
 - (b) the expulsion of the hostel boarder-
 - (i) from the hostel; or
 - (ii) from the hostel and from the school,should be recommended to the Head of Department as contemplated in regulation 18K; or
 - (c) any other sanction contemplated for serious misconduct in the code of conduct of the school or the code of conduct of the hostel should be imposed on the hostel boarder.

(8) Notwithstanding sub-regulations (3) (c) (iv), (4) (f) and (6) (c), the governing body must inform the hostel boarder and his or her parents in writing of the finding of the governing body and the sanction imposed, if applicable.

[R. 18J inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18K. Recommendation of expulsion by governing body.-(1) If the governing body decides that expulsion is the suitable sanction, the governing body must make a written recommendation to the Head of Department to expel the hostel boarder-

- (a) from the hostel; or
- (b) from the hostel and from the school.

(2) Pending a decision by the Head of Department, the governing body may suspend, or extend the suspension of, the hostel boarder-

- (a) from living in the hostel; or
- (b) from living in the hostel and attending the school,

for a period not longer than 14 school days from the day the recommendation was submitted to the Head of Department.

(3) Where the governing body recommends expulsion to the Head of Department, it must direct the principal to submit to the Head of Department, within three school days after the decision of the governing body contemplated in regulation 18J (7) (b)-

- (a) the investigation report contemplated in regulation 18D (3);
- (b) the minutes of the meeting at which the decision was taken;
- (c) any written representations submitted by the hostel boarder, parents of the hostel boarder, representative of the hostel boarder and representative of the school; and
- (d) the full record of the disciplinary proceedings by the disciplinary committee or governing body, as the case may be, and the subsequent actions by the governing body, if any.

(4) The combined period of suspension of a hostel boarder by the governing body in terms of-

- (a) regulation 18E (1);
- (b) regulation 18J (7) (a); and
- (c) sub-regulation (2),

may for each disciplinary proceeding against such hostel boarder not exceed 21 school days, unless the governing body obtained the approval of the Head of Department for the continuation of the suspension of the hostel boarder as contemplated in regulation 18H (2).

(5) (a) The Head of Department must consider the recommendation of the governing body and must-

- (i) expel the hostel boarder from the hostel;
- (ii) expel the hostel boarder from the hostel and from the school;
- (iii) impose a suitable sanction on the hostel boarder, after consultation with the governing body, which sanction must be implemented by the governing body; or
- (iv) if the Head of Department decides not to impose a sanction on the hostel boarder, refer the matter back to the governing body for an alternative sanction, other than expulsion, in terms of the code of conduct of the school or the code of conduct of the hostel, which sanction must be implemented by the governing body,

within 14 school days of receipt of the recommendation.

(b) The Head of Department must notify the governing body, the hostel boarder and the parents of the hostel boarder immediately, in writing, of the Head of Department's decision, with the reasons for the decision.

(c) If the Head of Department expels the hostel boarder-

- (i) from the hostel; or
- (ii) from the hostel and from the school,

the notice contemplated in paragraph (b) must include a reference to the right of appeal to the Provincial Minister.

(d) If the Head of Department expels the hostel boarder from the hostel only, such expulsion does not mean that the hostel boarder is also expelled from the school.

[R. 18K inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18L. Appeal in respect of expulsion.-(1) A hostel boarder, or the parents of a hostel boarder, who has been expelled-

- (a) from the hostel; or
- (b) from the hostel and from the school,

may appeal against the decision of the Head of Department by submitting a notice of appeal to the Provincial Minister within 14 school days of receipt of the notice of expulsion from the Head of Department as contemplated in regulation 18K (5) (b).

(2) A copy of the notice of appeal contemplated in sub-regulation (1) must also be submitted to the office of the Head of Department and the chairperson of the governing body.

(3) If the hostel boarder, parents of the hostel boarder, representative of the hostel boarder or representative of the school makes further representations to the Provincial Minister, a copy of the representations must also be submitted to the chairperson of the governing body for its response.

(4) If an appeal in terms of sub-regulation (1) is upheld by the Provincial Minister, the Provincial Minister must ensure that one of the following sanctions is imposed on the hostel boarder within 14 school days of the date on which the appeal was upheld-

- (a) if the Head of Department expelled the hostel boarder from the hostel and the Provincial Minister decides against such expulsion, the Provincial Minister may, after consultation with the governing body, impose a suitable sanction on the hostel boarder, which must be implemented by the governing body;
- (b) if the Head of Department expelled the hostel boarder from the hostel and the school and the Provincial Minister decides against such expulsion from the hostel and the school, the Provincial Minister may, after consultation with the governing body-
 - (i) expel the hostel boarder from the hostel only; or
 - (ii) impose a suitable sanction on the hostel boarder, which must be implemented by the governing body; or
- (c) if the Provincial Minister decides not to impose a sanction on the hostel boarder, the Provincial Minister must refer the matter back to the governing body for an alternative sanction, other than expulsion, in terms of the code of conduct of the school or the code of conduct of the hostel.

[R. 18L inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18M. Access to education after expulsion.-(1) If a hostel boarder who is subject to compulsory school attendance is expelled-

- (a) from the hostel, and the expulsion will have the effect that the hostel boarder will not be able to attend the school; or

- (b) from the hostel and from the school,

the Head of Department must make an alternative arrangement for the placement of the hostel boarder-

- (i) at a public school; or
 - (ii) at a public school and its hostel, if the school contemplated in subparagraph (i) is not accessible to the hostel boarder.
- (2) If a hostel boarder who is not subject to compulsory school attendance, is expelled-
- (a) from the hostel, and the expulsion will have the effect that the hostel boarder will not be able to attend the school; or
 - (b) from the hostel and from the school,

his or her parents may make an alternative arrangement for his or her placement-

- (i) at a school; or
- (ii) at a school and its hostel,

and may request the assistance of the district director with such placement.

- (3) If the hostel boarder is expelled-

- (a) from the hostel, and the expulsion will have the effect that he or she will not be able to attend the school; or
- (b) from the hostel and from the school,

and the hostel boarder or his or her parents have appealed in the manner contemplated in regulation 18L, such hostel boarder must, pending the outcome of the appeal, be given access to education in the manner determined by the Head of Department after consultation with the principal.

(4) In determining an alternative arrangement for placement contemplated in sub-regulation (1) or the manner of access to education contemplated in sub-regulation (3), the Head of Department-

- (a) must take reasonable measures to protect the rights of officers, members of staff and visitors at the school concerned and the hostel concerned, if applicable, and other-
 - (i) learners at the school concerned; and
 - (ii) hostel boarders at the hostel concerned, if applicable; and
- (b) may consider an alternative method of providing education to the hostel boarder, which may include any or all of the following-
 - (i) ensuring that the hostel boarder is admitted to-
 - (aa) another school; or
 - (bb) another school and its hostel;
 - (ii) requiring the hostel boarder to attend counselling at district level with Specialised Learner and Educator Support or School Psychological Support or School Social Work Support; and
 - (iii) requesting regular progress reports in respect of the counselling contemplated in sub-paragraph (ii) from the relevant support component.

- (5) Any hostel boarder who is expelled-

- (a) from the hostel, and the expulsion will have the effect that he or she will not be able to attend the school; or
- (b) from the hostel and from the school,

during the last term of a year, must be afforded the opportunity to write the final examinations of that school in that year, and the principal of the school may require the hostel boarder to write the examinations in a venue separate from the learners of the school.

[R. 18M inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

18N. Conflict.-If any conflict arises between regulations 18A to 18M and the Regulations relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape, regulations 18A to 18M prevail where a hostel boarder is concerned.

[R. 18N inserted by r. 9 of Provincial Notice No. 104 of 2 September 2022.]

19. Health inspection of hostels.-(1) If a principal is of the opinion that the condition of a hostel requires an inspection, he or she may request the authority responsible for municipal health services in whose jurisdiction such hostel is located to avail a Health Officer, appointed in terms of section 80 of the National Health Act, 2003 (Act 61 of 2003) to carry out such an inspection.

(2) Health inspection reports emanating from inspections must be made available to the principal within 14 days after such an inspection.

(3) Reports referred to in sub-regulation (2) must be forwarded to the Head of Department via the District Director.

20. Medical examinations of learners and administration of medication.-(1) A learner boarding in a hostel may, if it is required by the Head of Department, the principal of the school or a person authorised thereto by him or her and after consultation with the parents of the learner, subject him- or herself to a medical examination by a medical practitioner.

(2) The administration of medication to learners in hostels must be dealt with in terms of the provincial guidelines for the management of medication.

21. Short title and date of commencement.-These regulations are called the Regulations relating to the Management and Control of Hostels at Public Schools and come into effect on 1 January 2013.

[R. 21 substituted by r. 10 of Provincial Notice No. 104 of 2 September 2022.]